

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 1276

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO ANATOMICAL GIFTS; ENACTING THE JONATHAN SPRADLING
REVISED UNIFORM ANATOMICAL GIFT ACT; REVISING STATUTORY
REFERENCES; RECOMPILING AND REPEALING SECTIONS OF THE UNIFORM
ANATOMICAL GIFT ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 25 of this act may be cited as the "Jonathan Spradling
Revised Uniform Anatomical Gift Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Jonathan Spradling Revised Uniform Anatomical Gift Act:

A. "adult" means an individual who is at least
sixteen years of age;

B. "agent" means an individual:

(1) authorized to make health care decisions

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underscored material = new
[bracketed material] = delete

1 on the principal's behalf by a power of attorney for health
2 care; or

3 (2) expressly authorized to make an anatomical
4 gift on the principal's behalf by any other record signed by
5 the principal;

6 C. "anatomical gift" means a donation of all or
7 part of a human body to take effect after the donor's death for
8 the purpose of transplantation, therapy, research or education;

9 D. "decedent" means a deceased individual whose
10 body or part is or may be the source of an anatomical gift.
11 "Decedent" includes a stillborn infant and, subject to
12 restrictions imposed by law other than the Jonathan Spradling
13 Revised Uniform Anatomical Gift Act, a fetus but not including
14 a fetus that is the subject of an induced abortion;

15 E. "disinterested witness" means a witness other
16 than the spouse, child, parent, sibling, grandchild,
17 grandparent or guardian of the individual who makes, amends,
18 revokes or refuses to make an anatomical gift, or another adult
19 who exhibited special care and concern for the individual.
20 "Disinterested witness" does not include a person to which an
21 anatomical gift could pass pursuant to Section 11 of the
22 Jonathan Spradling Revised Uniform Anatomical Gift Act;

23 F. "document of gift" means a donor card or other
24 record used to make an anatomical gift. "Document of gift"
25 includes a statement or symbol on a driver's license,

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1 identification card or donor registry;

2 G. "donor" means an individual whose body or part
3 is the subject of an anatomical gift;

4 H. "donor registry" means a database that contains
5 records of anatomical gifts and amendments to or revocations of
6 anatomical gifts;

7 I. "driver's license" means a license or permit
8 issued by the motor vehicle division of the taxation and
9 revenue department to operate a vehicle, whether or not
10 conditions are attached to the license or permit;

11 J. "eye bank" means a person that is licensed,
12 accredited or regulated pursuant to federal or state law to
13 engage in the recovery, screening, testing, processing, storage
14 or distribution of human eyes or portions of human eyes;

15 K. "guardian" means a person appointed by a court
16 to make decisions regarding the support, care, education,
17 health or welfare of an individual. "Guardian" does not
18 include a guardian ad litem;

19 L. "hospital" means a facility licensed as a
20 hospital pursuant to the law of any state or a facility
21 operated as a hospital by the United States, a state or a
22 subdivision of a state;

23 M. "identification card" means an identification
24 card issued by the motor vehicle division of the taxation and
25 revenue department;

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1 N. "know" means to have actual knowledge;

2 O. "minor" means an individual who is under
3 eighteen years of age;

4 P. "organ procurement organization" means a person
5 designated by the secretary of the federal department of health
6 and human services as an organ procurement organization;

7 Q. "parent" means a parent whose parental rights
8 have not been terminated;

9 R. "part" means an organ, an eye or tissue of a
10 human being. "Part" does not include the whole body;

11 S. "person" means an individual, corporation,
12 business trust, estate, trust, partnership, limited liability
13 company, association, joint venture, public corporation,
14 government or governmental subdivision, agency or
15 instrumentality, or any other legal or commercial entity;

16 T. "physician" means an individual authorized to
17 practice medicine or osteopathy pursuant to the law of any
18 state;

19 U. "power of attorney for health care" includes an
20 advance health-care directive as defined in the Uniform Health-
21 Care Decisions Act;

22 V. "procurement organization" means an eye bank,
23 organ procurement organization or tissue bank;

24 W. "prospective donor" means an individual who is
25 dead or near death and has been determined by a procurement

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1 organization to have a part that could be medically suitable
2 for transplantation, therapy, research or education.

3 "Prospective donor" does not include an individual who has made
4 a refusal;

5 X. "reasonably available" means able to be
6 contacted by a procurement organization without undue effort
7 and willing and able to act in a timely manner consistent with
8 existing medical criteria necessary for the making of an
9 anatomical gift;

10 Y. "recipient" means an individual into whose body
11 a decedent's part has been or is intended to be transplanted;

12 Z. "record" means information that is inscribed on
13 a tangible medium or that is stored in an electronic or other
14 medium and is retrievable in perceivable form;

15 AA. "refusal" means a record created pursuant to
16 Section 7 of the Jonathan Spradling Revised Uniform Anatomical
17 Gift Act that expressly states an intent to bar other persons
18 from making an anatomical gift of an individual's body or part;

19 BB. "sign" means, with the present intent to
20 authenticate or adopt a record:

21 (1) to execute or adopt a tangible symbol; or

22 (2) to attach to or logically associate with
23 the record an electronic symbol, sound or process;

24 CC. "state" means a state of the United States, the
25 District of Columbia, Puerto Rico, the United States Virgin

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1 Islands or any territory or insular possession subject to the
2 jurisdiction of the United States;

3 DD. "technician" means an individual determined to
4 be qualified to remove or process parts by an appropriate
5 organization that is licensed, accredited or regulated pursuant
6 to federal or state law. "Technician" includes an enucleator;

7 EE. "tissue" means a portion of the human body
8 other than an organ or an eye. "Tissue" does not include blood
9 unless the blood is donated for the purpose of research or
10 education;

11 FF. "tissue bank" means a person that is licensed,
12 accredited or regulated pursuant to federal or state law to
13 engage in the recovery, screening, testing, processing, storage
14 or distribution of tissue; and

15 GG. "transplant hospital" means a hospital that
16 furnishes organ transplants and other medical and surgical
17 specialty services required for the care of transplant
18 patients.

19 Section 3. [NEW MATERIAL] APPLICABILITY.--The Jonathan
20 Spradling Revised Uniform Anatomical Gift Act applies to an
21 anatomical gift or amendment to, revocation of or refusal to
22 make an anatomical gift, whenever made.

23 Section 4. [NEW MATERIAL] WHO MAY MAKE ANATOMICAL GIFT
24 BEFORE DONOR'S DEATH.--Subject to the provisions of Section 8
25 of the Jonathan Spradling Revised Uniform Anatomical Gift Act,

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1 an anatomical gift of a donor's body or part may be made during
2 the life of the donor for the purpose of transplantation,
3 therapy, research or education in the manner provided in
4 Section 5 of the Jonathan Spradling Revised Uniform Anatomical
5 Gift Act by:

6 A. the donor, if the donor is an adult or if the
7 donor is a minor and is:

8 (1) emancipated; or

9 (2) authorized pursuant to state law to apply
10 for an instruction permit because the donor is at least fifteen
11 years of age;

12 B. an agent of the donor, unless the power of
13 attorney for health care or other record prohibits the agent
14 from making an anatomical gift;

15 C. a parent of the donor, if the donor is an
16 unemancipated minor; or

17 D. the donor's guardian.

18 Section 5. [NEW MATERIAL] MANNER OF MAKING ANATOMICAL
19 GIFT BEFORE DONOR'S DEATH.--

20 A. A donor may make an anatomical gift:

21 (1) by authorizing a statement or symbol
22 indicating that the donor has made an anatomical gift to be
23 imprinted on the donor's driver's license or identification
24 card;

25 (2) in a will;

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1 (3) during a terminal illness or injury of the
2 donor, by any form of communication addressed to at least two
3 adults, at least one of whom is a disinterested witness; or

4 (4) as provided in Subsection B of this
5 section.

6 B. A donor or other person authorized to make an
7 anatomical gift pursuant to Section 4 of the Jonathan Spradling
8 Revised Uniform Anatomical Gift Act may make a gift by a donor
9 card or other record signed by the donor or other person making
10 the gift or by authorizing that a statement or symbol
11 indicating that the donor has made an anatomical gift be
12 included on a donor registry. If the donor or other person is
13 physically unable to sign a record, the record may be signed by
14 another individual at the direction of the donor or other
15 person and shall:

16 (1) be witnessed by at least two adults, at
17 least one of whom is a disinterested witness, who have signed
18 at the request of the donor or the other person; and

19 (2) state that it has been signed and
20 witnessed as provided in Paragraph (1) of this subsection.

21 C. Revocation, suspension, expiration or
22 cancellation of a driver's license or identification card upon
23 which an anatomical gift is indicated does not invalidate the
24 gift.

25 D. An anatomical gift made by will takes effect

1 upon the donor's death whether or not the will is probated.
2 Invalidation of the will after the donor's death does not
3 invalidate the anatomical gift.

4 Section 6. [NEW MATERIAL] AMENDING OR REVOKING ANATOMICAL
5 GIFT BEFORE DONOR'S DEATH.--

6 A. Subject to the provisions of Section 8 of the
7 Jonathan Spradling Revised Uniform Anatomical Gift Act, a donor
8 or other person authorized to make an anatomical gift pursuant
9 to Section 4 of that act may amend or revoke an anatomical gift
10 by:

11 (1) a record signed by:

12 (a) the donor;

13 (b) the other person; or

14 (c) subject to the provisions of
15 Subsection B of this section, another individual acting at the
16 direction of the donor or the other person if the donor or
17 other person is physically unable to sign; or

18 (2) a later-executed document of gift that
19 amends or revokes a previous anatomical gift or portion of an
20 anatomical gift, either expressly or by inconsistency.

21 B. A record signed pursuant to Subparagraph (c) of
22 Paragraph (1) of Subsection A of this section shall:

23 (1) be witnessed by at least two adults, at
24 least one of whom is a disinterested witness, who have signed
25 at the request of the donor or the other person; and

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1 (2) state that it has been signed and
2 witnessed as provided in Paragraph (1) of this subsection.

3 C. Subject to the provisions of Section 8 of the
4 Jonathan Spradling Revised Uniform Anatomical Gift Act, a donor
5 or other person authorized to make an anatomical gift pursuant
6 to Section 4 of that act may revoke an anatomical gift by the
7 destruction or cancellation of the document of gift, or the
8 portion of the document of gift used to make the gift, with the
9 intent to revoke the gift.

10 D. A donor may amend or revoke an anatomical gift
11 that was not made in a will by any form of communication during
12 a terminal illness or injury addressed to at least two adults,
13 at least one of whom is a disinterested witness.

14 E. A donor who makes an anatomical gift in a will
15 may amend or revoke the gift in the manner provided for
16 amendment or revocation of wills or as provided in Subsection A
17 of this section.

18 Section 7. [NEW MATERIAL] REFUSAL TO MAKE ANATOMICAL
19 GIFT--EFFECT OF REFUSAL.--

20 A. An individual may refuse to make an anatomical
21 gift of the individual's body or part by:

22 (1) a record signed by:

23 (a) the individual; or

24 (b) subject to the provisions of

25 Subsection B of this section, another individual acting at the

1 direction of the individual if the individual is physically
2 unable to sign;

3 (2) the individual's will, whether or not the
4 will is admitted to probate or invalidated after the
5 individual's death; or

6 (3) any form of communication made by the
7 individual during the individual's terminal illness or injury
8 addressed to at least two adults, at least one of whom is a
9 disinterested witness.

10 B. A record signed pursuant to Subparagraph (b) of
11 Paragraph (1) of Subsection A of this section shall:

12 (1) be witnessed by at least two adults, at
13 least one of whom is a disinterested witness, who have signed
14 at the request of the individual; and

15 (2) state that it has been signed and
16 witnessed as provided in Paragraph (1) of this subsection.

17 C. An individual who has made a refusal may amend
18 or revoke the refusal:

19 (1) in the manner provided in Subsection A of
20 this section for making a refusal;

21 (2) by subsequently making an anatomical gift
22 pursuant to Section 5 of the Jonathan Spradling Revised Uniform
23 Anatomical Gift Act that is inconsistent with the refusal; or

24 (3) by destroying or canceling the record
25 evidencing the refusal, or the portion of the record used to

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1 make the refusal, with the intent to revoke the refusal.

2 D. Except as otherwise provided in Subsection H of
3 Section 8 of the Jonathan Spradling Revised Uniform Anatomical
4 Gift Act, in the absence of an express, contrary indication by
5 the individual set forth in the refusal, an individual's
6 unrevoked refusal to make an anatomical gift of the
7 individual's body or part bars all other persons from making an
8 anatomical gift of the individual's body or part.

9 Section 8. [NEW MATERIAL] PRECLUSIVE EFFECT OF ANATOMICAL
10 GIFT, AMENDMENT OR REVOCATION.--

11 A. Except as otherwise provided in Subsection G of
12 this section and subject to the provisions of Subsection F of
13 this section, in the absence of an express, contrary indication
14 by the donor, a person other than the donor is barred from
15 making, amending or revoking an anatomical gift of a donor's
16 body or part if the donor made an anatomical gift of the
17 donor's body or part pursuant to Section 5 of the Jonathan
18 Spradling Revised Uniform Anatomical Gift Act or an amendment
19 to an anatomical gift of the donor's body or part pursuant to
20 Section 6 of that act.

21 B. A donor's revocation of an anatomical gift of
22 the donor's body or part pursuant to Section 6 of the Jonathan
23 Spradling Revised Uniform Anatomical Gift Act is not a refusal
24 and does not bar another person specified in Section 4 or 9 of
25 that act from making an anatomical gift of the donor's body or

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1 part pursuant to Section 5 or 10 of that act.

2 C. If a person other than the donor makes an
3 unrevoked anatomical gift of the donor's body or part pursuant
4 to Section 5 of the Jonathan Spradling Revised Uniform
5 Anatomical Gift Act or an amendment to an anatomical gift of
6 the donor's body or part pursuant to Section 6 of that act,
7 another person may not make, amend or revoke the gift of the
8 donor's body or part pursuant to Section 10 of that act.

9 D. A revocation of an anatomical gift of a donor's
10 body or part pursuant to Section 6 of the Jonathan Spradling
11 Revised Uniform Anatomical Gift Act by a person other than the
12 donor does not bar another person from making an anatomical
13 gift of the body or part pursuant to Section 5 or 10 of that
14 act.

15 E. In the absence of an express, contrary
16 indication by the donor or other person authorized to make an
17 anatomical gift pursuant to Section 4 of the Jonathan Spradling
18 Revised Uniform Anatomical Gift Act, an anatomical gift of a
19 part is neither a refusal to give another part nor a limitation
20 on the making of an anatomical gift of another part at a later
21 time by the donor or another person.

22 F. In the absence of an express, contrary
23 indication by the donor or other person authorized to make an
24 anatomical gift pursuant to Section 4 of the Jonathan Spradling
25 Revised Uniform Anatomical Gift Act, an anatomical gift of a

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1 part for one or more of the purposes set forth in Section 4 of
2 that act is not a limitation on the making of an anatomical
3 gift of the part for any of the other purposes by the donor or
4 any other person pursuant to Section 5 or 10 of that act.

5 G. If a donor who is an unemancipated minor dies, a
6 parent of the donor who is reasonably available may revoke or
7 amend an anatomical gift of the donor's body or part.

8 H. If an unemancipated minor who signed a refusal
9 dies, a parent of the minor who is reasonably available may
10 revoke the minor's refusal.

11 Section 9. [NEW MATERIAL] WHO MAY MAKE ANATOMICAL GIFT OF
12 DECEDENT'S BODY OR PART.--

13 A. Subject to the provisions of Subsections B and C
14 of this section and unless barred by Section 7 or 8 of the
15 Jonathan Spradling Revised Uniform Anatomical Gift Act, an
16 anatomical gift of a decedent's body or part for purpose of
17 transplantation, therapy, research or education may be made by
18 any member of the following classes of persons who is
19 reasonably available, in the order of priority listed:

20 (1) an agent of the decedent at the time of
21 death who could have made an anatomical gift pursuant to
22 Subsection B of Section 4 of the Jonathan Spradling Revised
23 Uniform Anatomical Gift Act immediately before the decedent's
24 death;

25 (2) the spouse of the decedent unless legally

1 separated or unless there is a pending action for annulment,
2 divorce, dissolution of marriage or separation;

3 (3) adult children of the decedent;

4 (4) parents of the decedent;

5 (5) adult siblings of the decedent;

6 (6) adult grandchildren of the decedent;

7 (7) grandparents of the decedent;

8 (8) an adult who exhibited special care and
9 concern for the decedent;

10 (9) the persons who were acting as the
11 guardians of the person of the decedent at the time of death;
12 and

13 (10) any other person having the authority to
14 dispose of the decedent's body.

15 B. If there is more than one member of a class
16 listed in Paragraphs (1), (3), (4), (5), (6), (7) and (9) of
17 Subsection A of this section entitled to make an anatomical
18 gift, an anatomical gift may be made by a member of the class
19 unless that member or a person to which the gift may pass
20 pursuant to Section 11 of the Jonathan Spradling Revised
21 Uniform Anatomical Gift Act knows of an objection by another
22 member of the class. If an objection is known, the gift may be
23 made only by a majority of the members of the class who are
24 reasonably available.

25 C. A person may not make an anatomical gift if, at

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1 the time of the decedent's death, a person in a prior class
2 pursuant to Subsection A of this section is reasonably
3 available to make or to object to the making of an anatomical
4 gift.

5 Section 10. [NEW MATERIAL] MANNER OF MAKING, AMENDING OR
6 REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.--

7 A. A person authorized to make an anatomical gift
8 pursuant to Section 9 of the Jonathan Spradling Revised Uniform
9 Anatomical Gift Act may make an anatomical gift by a document
10 of gift signed by the person making the gift or by that
11 person's oral communication that is electronically recorded or
12 is contemporaneously reduced to a record and signed by the
13 individual receiving the oral communication.

14 B. Subject to the provisions of Subsection C of
15 this section, an anatomical gift by a person authorized
16 pursuant to Section 9 of the Jonathan Spradling Revised Uniform
17 Anatomical Gift Act may be amended or revoked orally or in a
18 record by any member of a prior class who is reasonably
19 available. If more than one member of the prior class is
20 reasonably available, the gift made by a person authorized
21 pursuant to Section 9 of that act may be:

22 (1) amended only if a majority of the
23 reasonably available members agree to the amending of the gift;
24 or

25 (2) revoked only if a majority of the

1 reasonably available members agree to the revoking of the gift
2 or if they are equally divided as to whether to revoke the
3 gift.

4 C. A revocation pursuant to Subsection B of this
5 section is effective only if, before an incision has been made
6 to remove a part from the donor's body or before invasive
7 procedures have begun to prepare the recipient, the procurement
8 organization, transplant hospital or physician or technician
9 knows of the revocation.

10 Section 11. [NEW MATERIAL] PERSONS THAT MAY RECEIVE
11 ANATOMICAL GIFT--PURPOSE OF ANATOMICAL GIFT.--

12 A. An anatomical gift may be made to the following
13 persons named in the document of gift:

14 (1) a hospital; accredited medical school,
15 dental school, college or university; organ procurement
16 organization; or other appropriate person, for research or
17 education;

18 (2) subject to the provisions of Subsection B
19 of this section, an individual designated by the person making
20 the anatomical gift if the individual is the recipient of the
21 part; and

22 (3) an eye bank or tissue bank.

23 B. If an anatomical gift to an individual pursuant
24 to Paragraph (2) of Subsection A of this section cannot be
25 transplanted into the individual, the part passes in accordance

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1 with Subsection G of this section in the absence of an express,
2 contrary indication by the person making the anatomical gift.

3 C. If an anatomical gift of one or more specific
4 parts or of all parts is made in a document of gift that does
5 not name a person described in Subsection A of this section but
6 identifies the purpose for which an anatomical gift may be
7 used, the following rules apply:

8 (1) if the part is an eye and the gift is for
9 the purpose of transplantation or therapy, the gift passes to
10 the appropriate eye bank;

11 (2) if the part is tissue and the gift is for
12 the purpose of transplantation or therapy, the gift passes to
13 the appropriate tissue bank;

14 (3) if the part is an organ and the gift is
15 for the purpose of transplantation or therapy, the gift passes
16 to the appropriate organ procurement organization as custodian
17 of the organ; and

18 (4) if the part is an organ, an eye or tissue
19 and the gift is for the purpose of research or education, the
20 gift passes to the appropriate procurement organization.

21 D. For the purpose of Subsection C of this section,
22 if there is more than one purpose of an anatomical gift set
23 forth in the document of gift but the purposes are not set
24 forth in any priority, the gift shall be used for
25 transplantation or therapy, if suitable. If the gift cannot be

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1 used for transplantation or therapy, the gift may be used for
2 research or education.

3 E. If an anatomical gift of one or more specific
4 parts is made in a document of gift that does not name a person
5 described in Subsection A of this section and does not identify
6 the purpose of the gift, the gift may be used only for
7 transplantation or therapy, and the gift passes in accordance
8 with Subsection G of this section.

9 F. If a document of gift specifies only a general
10 intent to make an anatomical gift by words such as "donor",
11 "organ donor" or "body donor", or by a symbol or statement of
12 similar import, the gift may be used only for transplantation
13 or therapy and the gift passes in accordance with Subsection G
14 of this section.

15 G. For purposes of Subsections B, E and F of this
16 section the following rules apply:

17 (1) if the part is an eye, the gift passes to
18 the appropriate eye bank;

19 (2) if the part is tissue, the gift passes to
20 the appropriate tissue bank; and

21 (3) if the part is an organ, the gift passes
22 to the appropriate organ procurement organization as custodian
23 of the organ.

24 H. An anatomical gift of an organ for
25 transplantation or therapy, other than an anatomical gift

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1 pursuant to Paragraph (2) of Subsection A of this section,
2 passes to the organ procurement organization as custodian of
3 the organ.

4 I. If an anatomical gift does not pass pursuant to
5 Subsections A through H of this section or the decedent's body
6 or part is not used for transplantation, therapy, research or
7 education, custody of the body or part passes to the person
8 under obligation to dispose of the body or part.

9 J. A person may not accept an anatomical gift if
10 the person knows that the gift was not effectively made
11 pursuant to Section 5 or 10 of the Jonathan Spradling Revised
12 Uniform Anatomical Gift Act or if the person knows that the
13 decedent made a refusal pursuant to Section 7 of that act that
14 was not revoked. For purposes of this subsection, if a person
15 knows that an anatomical gift was made on a document of gift,
16 the person is deemed to know of any amendment or revocation of
17 the gift or any refusal to make an anatomical gift on the same
18 document of gift.

19 K. Except as otherwise provided in Paragraph (2) of
20 Subsection A of this section, nothing in the Jonathan Spradling
21 Revised Uniform Anatomical Gift Act affects the allocation of
22 organs for transplantation or therapy.

23 Section 12. [NEW MATERIAL] SEARCH AND NOTIFICATION.--

24 A. The following persons shall make a reasonable
25 search of an individual who the person reasonably believes is

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1 dead or near death for a document of gift or other information
2 identifying the individual as a donor or as an individual who
3 made a refusal:

4 (1) a law enforcement officer, firefighter,
5 paramedic or other emergency rescuer finding the individual;
6 and

7 (2) if no other source of the information is
8 immediately available, a hospital, as soon as practical after
9 the individual's arrival at the hospital.

10 B. If a document of gift or a refusal to make an
11 anatomical gift is located by the search required by Paragraph
12 (1) of Subsection A of this section and the individual or
13 deceased individual to whom it relates is taken to a hospital,
14 the person responsible for conducting the search shall send the
15 document of gift or refusal to the hospital.

16 C. A person is not subject to criminal or civil
17 liability for failing to discharge the duties imposed by this
18 section but may be subject to administrative sanctions.

19 Section 13. [NEW MATERIAL] DELIVERY OF DOCUMENT OF GIFT
20 NOT REQUIRED--RIGHT TO EXAMINE.--

21 A. A document of gift need not be delivered during
22 the donor's lifetime to be effective.

23 B. Upon or after an individual's death, a person in
24 possession of a document of gift or a refusal to make an
25 anatomical gift with respect to the individual shall allow

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1 examination and copying of the document of gift or refusal by a
2 person authorized to make or object to the making of an
3 anatomical gift with respect to the individual or by a person
4 to which the gift could pass pursuant to Section 11 of the
5 Jonathan Spradling Revised Uniform Anatomical Gift Act.

6 Section 14. [NEW MATERIAL] RIGHTS AND DUTIES OF
7 PROCUREMENT ORGANIZATION AND OTHERS.--

8 A. When a hospital refers an individual at or near
9 death to a procurement organization, the organization shall
10 make a reasonable search of the records of the motor vehicle
11 division of the taxation and revenue department and any donor
12 registry that it knows exists for the geographical area in
13 which the individual resides to ascertain whether the
14 individual has made an anatomical gift.

15 B. A procurement organization shall be allowed
16 reasonable access to information in the records of the motor
17 vehicle division of the taxation and revenue department to
18 ascertain whether an individual at or near death is a donor.

19 C. When a hospital refers an individual at or near
20 death to a procurement organization, the organization may
21 conduct any reasonable examination necessary to ensure the
22 medical suitability of a part that is or could be the subject
23 of an anatomical gift for transplantation, therapy, research or
24 education from a donor or a prospective donor. During the
25 examination period, measures necessary to ensure the medical

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1 suitability of the part may not be withdrawn unless the
2 hospital or procurement organization knows that the individual
3 expressed a contrary intent.

4 D. Unless prohibited by law other than the Jonathan
5 Spradling Revised Uniform Anatomical Gift Act, at any time
6 after a donor's death, the person to which a part passes
7 pursuant to Section 11 of that act may conduct any reasonable
8 examination necessary to ensure the medical suitability of the
9 body or part for its intended purpose.

10 E. Unless prohibited by law other than the Jonathan
11 Spradling Revised Uniform Anatomical Gift Act, an examination
12 pursuant to Subsection C or D of this section may include an
13 examination of all medical and dental records of the donor or
14 prospective donor.

15 F. Upon the death of a minor who was a donor or had
16 signed a refusal, unless a procurement organization knows the
17 minor is emancipated, the procurement organization shall
18 conduct a reasonable search for the parents of the minor and
19 provide the parents with an opportunity to revoke or amend the
20 anatomical gift or revoke the refusal.

21 G. Upon referral by a hospital pursuant to
22 Subsection A of this section, a procurement organization shall
23 make a reasonable search for any person listed in Section 9 of
24 the Jonathan Spradling Revised Uniform Anatomical Gift Act
25 having priority to make an anatomical gift on behalf of a

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1 prospective donor. If a procurement organization receives
2 information that an anatomical gift to any other person was
3 made, amended or revoked, it shall promptly advise the other
4 person of all relevant information.

5 H. Subject to the provisions of Subsection I of
6 Section 11 and Section 23 of the Jonathan Spradling Revised
7 Uniform Anatomical Gift Act, the rights of the person to which
8 a part passes pursuant to Section 11 of that act are superior
9 to the rights of all others with respect to the part. The
10 person may accept or reject an anatomical gift in whole or in
11 part. Subject to the terms of the document of gift and the
12 Jonathan Spradling Revised Uniform Anatomical Gift Act, a
13 person that accepts an anatomical gift of an entire body may
14 allow embalming, burial or cremation, and use of remains in a
15 funeral service. If the gift is of a part, the person to which
16 the part passes pursuant to Section 11 of the Jonathan
17 Spradling Revised Uniform Anatomical Gift Act, upon the death
18 of the donor and before embalming, burial or cremation, shall
19 cause the part to be removed without unnecessary mutilation.

20 I. Neither the physician who attends the decedent
21 at death nor the physician who determines the time of the
22 decedent's death may participate in the procedures for removing
23 or transplanting a part from the decedent.

24 J. A physician or technician may remove a donated
25 part from the body of a donor that the physician or technician

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1 is qualified to remove.

2 Section 15. [NEW MATERIAL] COORDINATION OF PROCUREMENT
3 AND USE.--Each hospital in this state shall enter into
4 agreements or affiliations with procurement organizations for
5 coordination of procurement and use of anatomical gifts.

6 Section 16. [NEW MATERIAL] SALE OR PURCHASE OF PARTS
7 PROHIBITED.--

8 A. Except as otherwise provided in Subsection B of
9 this section, a person who for valuable consideration,
10 knowingly purchases or sells a part for transplantation or
11 therapy if removal of a part from an individual is intended to
12 occur after the individual's death commits a third degree
13 felony and upon conviction is subject to a fine not exceeding
14 five thousand dollars (\$5,000) or imprisonment not exceeding
15 six years, or both.

16 B. A person may charge a reasonable amount for the
17 removal, processing, preservation, quality control, storage,
18 transportation, implantation or disposal of a part.

19 Section 17. [NEW MATERIAL] OTHER PROHIBITED ACTS.--A
20 person who, in order to obtain a financial gain, intentionally
21 falsifies, forges, conceals, defaces or obliterates a document
22 of gift, an amendment or revocation of a document of gift, or a
23 refusal, commits a third degree felony and upon conviction is
24 subject to a fine not exceeding five thousand dollars (\$5,000)
25 or imprisonment not exceeding six years, or both.

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1 Section 18. [NEW MATERIAL] IMMUNITY.--

2 A. A person that acts in accordance with the
3 Jonathan Spradling Revised Uniform Anatomical Gift Act or with
4 the applicable anatomical gift law of another state, or
5 attempts in good faith to do so, is not liable for the act in a
6 civil action, criminal prosecution or administrative
7 proceeding.

8 B. Neither the person making an anatomical gift nor
9 the donor's estate is liable for any injury or damage that
10 results from the making or use of the gift.

11 C. In determining whether an anatomical gift has
12 been made, amended or revoked pursuant to the Jonathan
13 Spradling Revised Uniform Anatomical Gift Act, a person may
14 rely upon representations of an individual listed in Paragraph
15 (2), (3), (4), (5), (6), (7) or (8) of Subsection A of Section
16 9 of that act relating to the individual's relationship to the
17 donor or prospective donor unless the person knows that the
18 representation is untrue.

19 Section 19. [NEW MATERIAL] LAW GOVERNING VALIDITY--CHOICE
20 OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT--PRESUMPTION OF
21 VALIDITY.--

22 A. A document of gift is valid if executed in
23 accordance with:

24 (1) the Jonathan Spradling Revised Uniform
25 Anatomical Gift Act;

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1 (2) the laws of the state or country where it
2 was executed; or

3 (3) the laws of the state or country where the
4 person making the anatomical gift was domiciled, has a place of
5 residence or was a national at the time the document of gift
6 was executed.

7 B. If a document of gift is valid pursuant to this
8 section, the law of this state governs the interpretation of
9 the document of gift.

10 C. A person may presume that a document of gift or
11 amendment of an anatomical gift is valid unless that person
12 knows that it was not validly executed or was revoked.

13 Section 20. [NEW MATERIAL] DONOR REGISTRY.--

14 A. The motor vehicle division of the taxation and
15 revenue department shall establish a donor registry pursuant to
16 the provisions of Subsection B of Section 66-5-10 NMSA 1978.

17 B. The motor vehicle division of the taxation and
18 revenue department shall cooperate with a person that
19 administers any donor registry that this state establishes,
20 contracts for or recognizes for the purpose of transferring to
21 the donor registry all relevant information regarding a donor's
22 making, amendment to or revocation of an anatomical gift.

23 C. A donor registry shall:

24 (1) allow a donor or other person authorized
25 pursuant to Section 4 of the Jonathan Spradling Revised Uniform

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1 Anatomical Gift Act to include on the donor registry a
2 statement or symbol that the donor has made, amended or revoked
3 an anatomical gift;

4 (2) be accessible to a procurement
5 organization to allow it to obtain relevant information on the
6 donor registry to determine, at or near death of the donor or a
7 prospective donor, whether the donor or prospective donor has
8 made, amended or revoked an anatomical gift; and

9 (3) be accessible for purposes of Paragraphs
10 (1) and (2) of this subsection seven days a week on a twenty-
11 four-hour basis.

12 D. Personally identifiable information on a donor
13 registry about a donor or prospective donor may not be used or
14 disclosed without the express consent of the donor, prospective
15 donor or person who made the anatomical gift for any purpose
16 other than to determine, at or near death of the donor or
17 prospective donor, whether the donor or prospective donor has
18 made, amended or revoked an anatomical gift.

19 E. This section does not prohibit any person from
20 creating or maintaining a donor registry that is not
21 established by or under contract with the state. Any such
22 registry shall comply with the provisions of Subsections C and
23 D of this section.

24 Section 21. [NEW MATERIAL] EFFECT OF ANATOMICAL GIFT ON
25 ADVANCE HEALTH-CARE DIRECTIVE.--

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1 A. As used in this section:

2 (1) "advance health-care directive" means a
3 power of attorney for health care, a health-care directive made
4 pursuant to the provisions of the Uniform Health-Care Decisions
5 Act or a record signed by a prospective donor containing the
6 prospective donor's direction concerning a health-care decision
7 for the prospective donor;

8 (2) "declaration" means a record signed by a
9 prospective donor specifying the circumstances under which a
10 life support system may be withheld or withdrawn from the
11 prospective donor; and

12 (3) "health-care decision" means any decision
13 made regarding the health care of the prospective donor.

14 B. If a prospective donor has a declaration or
15 advance health-care directive, measures necessary to ensure the
16 medical suitability of an organ for transplantation or therapy
17 may not be withheld or withdrawn from the prospective donor,
18 unless the declaration expressly provides to the contrary.

19 Section 22. [NEW MATERIAL] COOPERATION BETWEEN OFFICE OF
20 THE STATE MEDICAL INVESTIGATOR AND PROCUREMENT ORGANIZATION.--

21 A. The office of the state medical investigator
22 shall cooperate with procurement organizations to maximize the
23 opportunity to recover anatomical gifts for the purpose of
24 transplantation, therapy, research or education.

25 B. If the office of the state medical investigator

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1 receives notice from a procurement organization that an
2 anatomical gift might be available or was made with respect to
3 a decedent whose body is under the jurisdiction of the office
4 of the state medical investigator and a post-mortem examination
5 is going to be performed, unless the office of the state
6 medical investigator denies recovery in accordance with Section
7 23 of the Jonathan Spradling Revised Uniform Anatomical Gift
8 Act, the office of the state medical investigator or its
9 designee shall conduct a post-mortem examination of the body or
10 the part in a manner and within a period compatible with its
11 preservation for the purposes of the anatomical gift.

12 C. A part may not be removed from the body of a
13 decedent under the jurisdiction of the office of the state
14 medical investigator for transplantation, therapy, research or
15 education unless the part is the subject of an anatomical gift.
16 The body of a decedent under the jurisdiction of the office of
17 the state medical investigator may not be delivered to a person
18 for research or education unless the body is the subject of an
19 anatomical gift. This subsection does not preclude the office
20 of the state medical investigator from performing the medico-
21 legal investigation upon the body or parts of a decedent under
22 the jurisdiction of the office of the state medical
23 investigator.

24 Section 23. [NEW MATERIAL] FACILITATION OF ANATOMICAL
25 GIFT FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF THE

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1 OFFICE OF THE STATE MEDICAL INVESTIGATOR.--

2 A. Upon request of a procurement organization, the
3 office of the state medical investigator shall release to the
4 procurement organization the name, contact information and
5 available medical and social history of a decedent whose body
6 is under the jurisdiction of the office of the state medical
7 investigator. If the decedent's body or part is medically
8 suitable for transplantation, therapy, research or education,
9 the office of the state medical investigator shall release
10 post-mortem examination results to the procurement
11 organization. The procurement organization may make a
12 subsequent disclosure of the post-mortem examination results or
13 other information received from the office of the state medical
14 investigator only if relevant to transplantation or therapy.

15 B. The office of the state medical investigator may
16 conduct a medico-legal investigation by reviewing all medical
17 records, laboratory test results, x-rays, other diagnostic
18 results and other information that any person possesses about a
19 donor or prospective donor whose body is under the jurisdiction
20 of the office of the state medical investigator that the office
21 of the state medical investigator determines may be relevant to
22 the investigation.

23 C. A person that has any information requested by
24 the office of the state medical investigator pursuant to
25 Subsection B of this section shall provide that information as

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1 expeditiously as possible to allow the office of the state
2 medical investigator to conduct the medico-legal investigation
3 within a period compatible with the preservation of parts for
4 the purpose of transplantation, therapy, research or education.

5 D. If an anatomical gift has been or might be made
6 of a part of a decedent whose body is under the jurisdiction of
7 the office of the state medical investigator and a post-mortem
8 examination is not required, or the office of the state medical
9 investigator determines that a post-mortem examination is
10 required but that the recovery of the part that is the subject
11 of an anatomical gift will not interfere with the examination,
12 the office of the state medical investigator and the
13 procurement organization shall cooperate in the timely removal
14 of the part from the decedent for the purpose of
15 transplantation, therapy, research or education.

16 E. If an anatomical gift of a part from the
17 decedent under the jurisdiction of the office of the state
18 medical investigator has been or might be made, but the office
19 of the state medical investigator initially believes that the
20 recovery of the part could interfere with the post-mortem
21 investigation into the decedent's cause or manner of death, the
22 office of the state medical investigator shall consult with the
23 procurement organization or physician or technician designated
24 by the procurement organization about the proposed recovery.
25 After consultation, the office of the state medical

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1 investigator may allow the recovery.

2 F. Following the consultation pursuant to
3 Subsection E of this section, in the absence of mutually
4 agreed-upon protocols to resolve conflict between the office of
5 the state medical investigator and the procurement
6 organization, if the office of the state medical investigator
7 intends to deny recovery, the office of the state medical
8 investigator or its designee, at the request of the procurement
9 organization, shall attend the removal procedure for the part
10 before making a final determination not to allow the
11 procurement organization to recover the part. During the
12 removal procedure, the office of the state medical investigator
13 or its designee may allow recovery by the procurement
14 organization to proceed, or, if the office of the state medical
15 investigator or its designee reasonably believes that the part
16 may be involved in determining the decedent's cause or manner
17 of death, may deny recovery by the procurement organization.

18 G. If the office of the state medical investigator
19 or its designee denies recovery pursuant to Subsection F of
20 this section, the office of the state medical investigator or
21 its designee shall:

22 (1) explain in a record the specific reasons
23 for not allowing recovery of the part;

24 (2) include the specific reasons in the
25 records of the office of the state medical investigator; and

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1 (3) provide a record with the specific reasons
2 to the procurement organization.

3 H. If the office of the state medical investigator
4 or its designee allows recovery of a part pursuant to
5 Subsection D, E or F of this section, the procurement
6 organization, upon request, shall cause the physician or
7 technician who removes the part to provide the office of the
8 state medical investigator with a record describing the
9 condition of the part, a biopsy, a photograph and any other
10 information and observations that would assist in the
11 post-mortem examination.

12 I. If the office of the state medical investigator
13 or its designee is required to be present at a removal
14 procedure pursuant to Subsection F of this section, upon
15 request the procurement organization requesting the recovery of
16 the part shall reimburse the office of the state medical
17 investigator or its designee for the additional costs incurred
18 in complying with the provisions of Subsection F of this
19 section.

20 Section 24. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND
21 CONSTRUCTION.--In applying and construing the Jonathan
22 Spradling Revised Uniform Anatomical Gift Act, consideration
23 shall be given to the need to promote uniformity of the law
24 with respect to its subject matter among states that enact it.

25 Section 25. [NEW MATERIAL] RELATION TO ELECTRONIC

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1 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Jonathan
2 Spradling Revised Uniform Anatomical Gift Act modifies, limits
3 and supersedes the Electronic Signatures in Global and National
4 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
5 modify, limit or supersede Section 101(a) of that act, 15
6 U.S.C. Section 7001, or authorize electronic delivery of any of
7 the notices described in Section 103(b) of that act, 15 U.S.C.
8 Section 7003(b).

9 Section 26. Section 12-2-4 NMSA 1978 (being Laws 1993,
10 Chapter 174, Section 1) is amended to read:

11 "12-2-4. DETERMINATION OF DEATH.--

12 A. For all medical, legal and statutory purposes,
13 death occurs when an individual has sustained either:

14 (1) irreversible cessation of circulatory or
15 respiratory functions; or

16 (2) irreversible cessation of all functions of
17 the entire brain, including the brain stem.

18 B. A determination of death shall be made in
19 accordance with accepted medical standards.

20 C. Death is to be pronounced pursuant to the
21 provisions of Subsection A of this section before artificial
22 means of supporting circulatory or respiratory functions are
23 terminated and before any vital organ is removed for purposes
24 of transplantation, therapy, research or education in
25 compliance with the provisions of the Jonathan Spradling

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1 Revised Uniform Anatomical Gift Act.

2 D. The definition of death set forth in Subsection
3 A of this section is to be utilized for all purposes in this
4 state, including civil and criminal actions, notwithstanding
5 any other law to the contrary."

6 Section 27. Section 14-16-3 NMSA 1978 (being Laws 2001,
7 Chapter 131, Section 3) is amended to read:

8 "14-16-3. SCOPE.--

9 (a) Except as otherwise provided in Subsection (b),
10 the Uniform Electronic Transactions Act applies to electronic
11 records and electronic signatures relating to a transaction.

12 (b) The Uniform Electronic Transactions Act does
13 not apply to:

14 (1) a transaction to the extent it is governed
15 by:

16 (i) a law governing the creation and
17 execution of wills, codicils or testamentary trusts;

18 (ii) the Uniform Commercial Code, other
19 than Sections 55-1-107 and 55-1-206 NMSA 1978 and Chapter 55,
20 Articles 2 and 2A NMSA 1978; or

21 [~~(iii) the Uniform Anatomical Gift Act;~~
22 ~~(iv) the Uniform Health-Care Decisions~~
23 ~~Act; or~~

24 ~~(v) a statute, regulation or other rule~~
25 ~~of law that governs adoption, divorce or other family law~~

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1 ~~matters;~~]

2 (iii) court orders, notices or official
3 court documents, including briefs, pleadings and other records,
4 required to be executed in connection with court proceedings;

5 (2) a notice concerning:

6 (i) the cancellation or termination of
7 utility services, including water, heat or power services;

8 (ii) default, acceleration,
9 repossession, foreclosure, eviction or the right to cure, under
10 a credit agreement secured by or a rental agreement for a
11 primary residence of an individual; or

12 (iii) the cancellation or termination of
13 health insurance or benefits or life insurance or benefits, but
14 not including annuities; or

15 (3) any document required to accompany any
16 transportation or handling of hazardous materials, pesticides
17 or other toxic or dangerous materials.

18 (c) The Uniform Electronic Transactions Act applies
19 to an electronic record or electronic signature otherwise
20 excluded from the application of that act under Subsection (b)
21 to the extent it is governed by a law other than those
22 specified in Subsection (b).

23 (d) A transaction subject to the Uniform Electronic
24 Transactions Act is also subject to other applicable
25 substantive law."

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1 Section 28. Section 24-6A-7.1 NMSA 1978 (being Laws 2002,
2 Chapter 42, Section 3) is recompiled in the Jonathan Spradling
3 Revised Uniform Anatomical Gift Act and is amended to read:

4 "24-6A-7.1. DOCUMENT OF GIFT AS A LEGAL DOCUMENT.--A
5 document of gift [~~which includes a motor vehicle driver's~~
6 ~~license~~] constitutes a legal document and has sufficient legal
7 authority to be accepted by a designated or undesignated donee
8 of anatomical gifts pursuant to the Jonathan Spradling Revised
9 Uniform Anatomical Gift Act."

10 Section 29. Section 24-6A-9.1 NMSA 1978 (being Laws 2000,
11 Chapter 54, Section 7) is recompiled in the Jonathan Spradling
12 Revised Uniform Anatomical Gift Act and is amended to read:

13 "24-6A-9.1. IDENTIFICATION OF POTENTIAL DONORS.--

14 A. Each hospital in New Mexico, with the
15 concurrence of its medical staff, shall develop by July 1, 2000
16 a protocol for identifying potential donors. The protocol
17 shall be developed in collaboration with a procurement
18 organization. The protocol shall provide that at or near the
19 time of a patient's death and prior to the removal of life
20 support, the hospital shall contact a procurement organization
21 to determine the suitability of the patient as a donor. The
22 person designated by the hospital to contact the procurement
23 organization shall have the following information available
24 prior to making the contact:

- 25 (1) the patient's identifier number;

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- 1 (2) the patient's age;
- 2 (3) the cause of death; and
- 3 (4) any past medical history available.

4 B. The procurement organization shall determine the
5 suitability for donation. If the procurement organization
6 determines that donation is not appropriate based on
7 established medical criteria, that determination shall be noted
8 by hospital personnel on the patient's record and no further
9 action is necessary.

10 C. If the procurement organization determines that
11 the patient is a suitable candidate for donation, the
12 procurement organization shall initiate donor proceedings by
13 making a reasonable search for a document of gift or other
14 information identifying the patient as a donor or as [~~an~~
15 ~~individual~~] a person who has refused to make an anatomical
16 gift.

17 D. The hospital must have and implement written
18 protocols that:

19 (1) incorporate an agreement with a
20 procurement organization under which the hospital must notify,
21 in a timely manner, the procurement organization or a third
22 party designated by the procurement organization of patients
23 whose deaths are imminent and prior to the removal of life
24 support from a patient who has died in the hospital;

- 25 (2) ensure that the retrieval, processing,

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1 preservation, storage and distribution of tissues and eyes does
2 not interfere with vascular organ procurement;

3 (3) ensure that the family of each potential
4 donor is informed of its options to donate organs, tissues or
5 eyes or to decline to donate. The person designated by the
6 hospital to initiate the request to the family must be [~~an~~
7 ~~organ~~] a procurement organization employee or a designated
8 requester;

9 (4) encourage discretion and sensitivity with
10 respect to the circumstances, views and beliefs of the families
11 of potential donors; and

12 (5) ensure that the hospital works
13 cooperatively with the procurement organization in educating
14 hospital staff on donation issues, reviewing death records to
15 improve identification of potential donors and maintaining
16 potential donors while necessary testing and placement of
17 anatomical gifts take place.

18 E. Every hospital in the state shall establish a
19 committee to develop and implement its organ and tissue
20 donation policy and procedure to assist its staff in
21 identifying and evaluating terminal patients who may be
22 suitable organ or tissue donors. The committee shall include
23 members of the administrative, medical and nursing staffs and
24 shall appoint a member to act as a liaison between the hospital
25 and the state procurement organization."

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1 Section 30. Section 24-6A-9.2 NMSA 1978 (being Laws 2000,
2 Chapter 54, Section 6) is recompiled in the Jonathan Spradling
3 Revised Uniform Anatomical Gift Act and is amended to read:

4 "24-6A-9.2. DEATH RECORD REVIEWS.--Every hospital shall
5 work jointly with the appropriate procurement organization to
6 conduct death record reviews at least annually. The
7 procurement organization shall compile the results of the death
8 record reviews and provide a report to the department of health
9 by September 1 of each year; provided that the report to the
10 department shall not identify hospitals, [~~individual~~] donors or
11 recipients."

12 Section 31. Section 66-2-7.1 NMSA 1978 (being Laws 1995,
13 Chapter 135, Section 4, as amended) is amended to read:

14 "66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--
15 CONFIDENTIAL.--

16 A. It is unlawful for any department employee or
17 contractor or for any former department employee or contractor
18 to disclose to any person other than another employee of the
19 department any personal information about an individual
20 obtained by the department in connection with a driver's
21 license or permit, the titling or registration of a vehicle or
22 an identification card issued by the department pursuant to the
23 Motor Vehicle Code except:

24 (1) to the individual or the individual's
25 authorized representative;

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1 (2) for use by any governmental agency,
2 including any court, in carrying out its functions or by any
3 private person acting on behalf of the government;

4 (3) for use in connection with matters of
5 motor vehicle and driver safety or theft; motor vehicle
6 emissions; performance monitoring of motor vehicles, motor
7 vehicle parts and dealers; motor vehicle market research
8 activities, including survey research; motor vehicle production
9 alterations, recalls or advisories; and removal of non-owner
10 records from original owner records of motor vehicle
11 manufacturers;

12 (4) for use in research activities and for use
13 in producing statistical reports, so long as the personal
14 information is not published, redisclosed or used to contact
15 individuals;

16 (5) for use by any insurer or insurance
17 support organization or by a self-insured entity or its agents,
18 employees or contractors in connection with claims
19 investigation activities, antifraud activities, rating or
20 underwriting;

21 (6) for providing notice to owners of towed or
22 impounded vehicles;

23 (7) for use by an employer or its agent or
24 insurer in obtaining or verifying information relating to a
25 holder of a commercial driver's license;

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1 (8) for use by any requester if the requester
2 demonstrates that it has obtained the written consent of the
3 individual to whom the information pertains;

4 (9) for use by an insured state-chartered or
5 federally chartered credit union; an insured state or national
6 bank; an insured state or federal savings and loan association;
7 or an insured savings bank, but only:

8 (a) to verify the accuracy of personal
9 information submitted by an individual to the credit union,
10 bank, savings and loan association or savings bank; and

11 (b) if the information as submitted is
12 not correct or is no longer correct, to obtain the correct
13 information, but only for the purpose of preventing fraud by
14 pursuing legal remedies against or recovering on a debt or
15 security interest from the individual;

16 (10) for providing organ donor information as
17 provided in the Jonathan Spradling Revised Uniform Anatomical
18 Gift Act or Section 66-5-10 NMSA 1978; or

19 (11) for providing the names and addresses of
20 all lienholders and owners of record of abandoned vehicles to
21 storage facilities or wrecker yards for the purpose of
22 providing notice as required in Section 66-3-121 NMSA 1978.

23 B. Any person who violates the provisions of this
24 section is guilty of a misdemeanor and upon conviction shall be
25 sentenced in accordance with the provisions of Section 31-19-1

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1 NMSA 1978."

2 Section 32. Section 66-5-10 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 232, as amended) is amended to read:

4 "66-5-10. APPLICATION FOR LICENSE--INFORMATION--TRANSFER
5 TO LICENSE.--

6 A. Within the forms prescribed by the department
7 for applications and licenses of drivers of motor vehicles, a
8 space shall be provided to show whether the applicant is a
9 donor as provided in the Jonathan Spradling Revised Uniform
10 Anatomical Gift Act. Anyone applying for a license may, if
11 [~~he~~] the applicant desires, indicate [~~his~~] the applicant's
12 donor status on the space provided on the application, and this
13 information, if given by an applicant, shall be shown upon the
14 license issued. The form and driver's license shall be signed
15 by the donor in the presence of a witness who shall also sign
16 the form in the donor's presence. The department shall, as
17 soon as practicable, include the following donor statement on
18 the application form:

19 "I, _____, hereby make an

20 (Name of applicant/donor)

21 anatomical gift effective upon my death. A
22 medical evaluation at the time of my death shall
23 determine the organs and tissues suitable for
24 donation.
25 _____

1 (Signature of donor)

2 _____
3 (Signature of parent or guardian is required if the donor
4 is under [~~sixteen~~] fifteen years of age.)".

5 B. The department shall mark the donor status on
6 each person's driver's license record and shall retain each
7 application form or its image of a person who wishes to be a
8 donor. The department shall create and maintain a statewide
9 donor registry and shall provide on-line computer terminal
10 access to the donor registry to organ procurement [~~agencies~~]
11 organizations and procurement organizations, as defined in the
12 Jonathan Spradling Revised Uniform Anatomical Gift Act.

13 Authorized hospital or organ and tissue donor program
14 personnel, immediately prior to or after a donor's death, may
15 request verification of the donor's status from the department
16 and may obtain a copy of the application from the department."

17 Section 33. Section 66-5-401 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 328, as amended) is amended to read:

19 "66-5-401. IDENTIFICATION CARDS.--

20 A. A person who does not have a valid New Mexico
21 driver's license may be issued an identification card by the
22 department certified by the applicant as to true name, correct
23 age and other identifying data as the department may require.
24 Every application for an identification card shall be signed by
25 the applicant or the applicant's parent or guardian. The

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1 secretary may, for good cause, revoke or deny the issuance of
2 an identification card.

3 B. Within the forms prescribed by the department
4 for identification card applications, a space shall be provided
5 to show whether the applicant is a donor as provided in the
6 Jonathan Spradling Revised Uniform Anatomical Gift Act. A
7 person applying for an identification card may indicate that
8 person's status on the space provided on the application. The
9 donor status indicated by the applicant shall be displayed on
10 the identification card. The form and identification card
11 shall be signed by the donor in the presence of a witness who
12 shall also sign the form in the donor's presence."

13 Section 34. Section 66-7-506.1 NMSA 1978 (being Laws
14 2000, Chapter 54, Section 11) is amended to read:

15 "66-7-506.1. DWI PREVENTION AND EDUCATION PROGRAM--ORGAN
16 DONATION.--DWI prevention and education programs for
17 instruction permits and driver's licenses shall include
18 information on organ donation and the provisions of the
19 Jonathan Spradling Revised Uniform Anatomical Gift Act."

20 Section 35. REPEAL.--Sections 24-6A-1 through 24-6A-6.1,
21 24-6A-7, 24-6A-8, 24-6A-9 and 24-6A-10 through 24-6A-15 NMSA
22 1978 (being Laws 1995, Chapter 116, Sections 1 through 6, Laws
23 2000, Chapter 54, Section 8 and Laws 1995, Chapter 116,
24 Sections 7, 8, 9 and 10 through 15, as amended) are repealed.

25 Section 36. EFFECTIVE DATE.--The effective date of the
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1 provisions of this act is July 1, 2007.

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